

BEFORE THE HIGH COURT OF GUJARAT AT AHMEDABAD.

SPECIAL CIVIL APPLICATION NO.7036 OF 1994.

Date of Decision:-15-11-1995.

For Approval and Signature

THE HON'BLE MR. JUSTICE N.N. MATHUR,J.

1. Whether Reporters of Local Papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not?
3. Whether their Lordships wish to see the fair copy of judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?
5. Whether it is to be circulated to the Civil Judges ?

Mr. Yatin Oza, Advocate, for the petitioner.

Mr. Mr. M.R. Anand, G.P., with Miss Harsha Devani, A.G.P., for the respondents.

Coram:-N.N.Mathur, J.

Date:-15-11-1995.

Oral Judgment :-

Rule. Mr. M.R. Anand, learned G.P. waives service of rule on behalf of respondents.

By this Special Civil Application the petitioner has challenged the order dated 29-4-1993 passed by the Director, Primary Education Department, Gujarat State, whereby recognition of the Primary School Divyajyot Vidyavihar has been cancelled on the ground that the Management has committed breach of various provisions of the Bombay Primary Education Rules. The aforesaid order of the Director of Primary Education has been confirmed in the appeal by the State Government vide order dated

22-4-1994.

2. The main allegation against the management is that it has admitted more number of students than permissible. The defence of the petitioner is that in fact the management had approached to the Authority by way of an application to permit it to open more classes of standard 1st to 7th inasmuch as large number of students are coming from surrounding villages to the school being run by the petitioner. It was submitted that no decision is taken on such application submitted by the petitioner for permission to open new more classes. This Court in its order dated 29-6-1994 deprecated the in action on the part of the respondent in not disposing of the petitioner's application for permission to open more classes. In view of these facts, this Court directed the Director of Primary Education to take a decision on the application made by the school management. No such decision of the Director of Primary Education is placed on record. It appears that the the Director of Primary Education has not undertaken the exercise as directed by the order of this Court dated 29-6-1994.

3. It appears that after directions of this Court one Mr. M.S. Leua from the office of the Director of Primary Education, State of Gujarat, inspected the school. The allegation of admission to more number of students than permissible has been found to be true. So far as the building is concerned, there appears to be sufficient accommodation. However, financial position of the Institution is shown as "not sound". It is also pointed out that the school is having only four trained teachers out of 14 trained teachers. In the last, it is stated that if the classes of the Divyadajyot Vidyavihar Primary are closed, 1379 students cannot be accommodated in other three nearby schools.

4. Considering the fact that the Director of Primary Education as well as the State Government has taken the decision to derecognise the school without deciding the petitioner's application for opening new more classes. The order dated 29-4-1993 passed by the Director of Primary Education and that of the State Government dated 22-4-1994 deserve to be quashed. It would be appropriate to direct the respondents to consider afresh the entire matter keeping in view the decision for opening new more classes and the Report submitted by Mr.M.S.Leua more particularly keeping in view that closure of the school would result into untoward hardships to the large number of students and their parents. The authorities should also consider that if the school can be given provisional

recognition for a specific period and an opportunity is given to raise requisite fund and also to engage trained teachers. The respondents will take a decision in the matter within a period of two months from the date of receipt of the writ. Till the decision is taken by the State Government status-quo shall be maintained.

5. In view of the aforesaid, the petition is partly allowed and rule is made absolute as indicated above. There shall be no order as to costs. The petitioner has deposited a sum of Rs.50000/- in this Court and same may be returned to the learned Advocate for the petitioner.

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